



State of Rhode Island and Providence Plantations
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879-1900

(401) 783-3370
Fax (401) 783-2069

PUBLIC NOTICE

File Number: 2006-11-042 Date: February 8, 2021

This office has under consideration the application of:

Allen Harbor Oyster Inc.
c/o Andrew Smiley
2890 Tower Hill Road
Saunderstown, RI 02874

To modify a State of Rhode Island Assent to: add 200 floating oyster bags (2'x3') to their existing two acre aquaculture site. Four hundred floating bags are already used on this site.

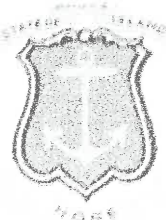
| | |
|-------------------|-------------------------------|
| Project Location: | Little Allens Harbor |
| City/Town: | North Kingstown |
| Plat/Lot: | / |
| Waterway: | West Passage Narragansett Bay |

Plans of the proposed work may be seen at the CRMC office in Wakefield.

In accordance with the Administrative Procedures Act (Chapter 42-35 of the Rhode Island General Laws) you may request a hearing on this matter.

You are advised that if you have good reason to enter protests against the proposed work it is your privilege to do so. It is expected that objectors will review the application and plans thoroughly, visit site of proposed work if necessary, to familiarize themselves with the conditions and cite what law or laws, if any, would in their opinion be violated by the work proposed.

If you desire to protest, you must attend the scheduled hearing and give sworn testimony. A notice of the time and place of such hearing will be furnished you as soon as possible after receipt of your request for hearing. If you desire to request a hearing, to receive consideration, it should be in writing (**with your correct mailing address, e-mail address and valid contact number**) and be received at this office on or before March 8, 2021.



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REQUEST FOR ASSENT MODIFICATION

Assent/Permit Number: 06-11-042 (including extensions) Expiration Date: 8-22-2022
Name of Assent Holder: Andrew Smiley Jr. Allen Harbor Oyster
Location of Project: Little Allens Harbor Narragansett Bay
City/Town: North Kingstown Plat: N/A
Lot: N/A

Name of Present Owner: Allen Harbor Oyster Inc
Mailing Address: 2890 Tower Hill Rd.
City/Town: South Kingstown State: RI
Zip: 02874
Phone Number: 401-641-2263 Contact Person: Andrew Smiley Jr
Abutters: Gorton Development Corp
Narragansett Bay - State of Rhode Island

I hereby certify that the names and addresses of adjacent property owners whose property adjoins the project site are accurate and current as of the date of application. If said names and addresses are found to be not accurate and/or current, any subsequent Assent may become Null and Void. Signed: Andrew C. Smiley Jr

Describe the proposed modification(s): Request additional 200 Floating Bags
to Area currently used for nursery area for seed growth area
New Bags being requested would be incorporated in area
currently used for this purpose, there is ample room for these Bags
to be added
Reason: To promote seed growth and reduce predation reduce
density in current Bags being used - also promoting growth
What state of construction is the project in: Approved Aquaculture lease in
operation producing oysters

Owner's Signature: Andrew C. Smiley Jr for Allen Harbor Oyster

By signing this application, the applicant acknowledges by evidence of their signature that they have reviewed the Rhode Island Coastal Resources Management Program, and have, where possible adhered to the policies and standards of the program. The applicant also acknowledges by evidence of their signature that to the best of their knowledge the information contained in the application is true and valid. The filing of false information can result in the Coastal Resources Management Council revoking State Assent. Applicant requires that as a condition to the granting of this assent, members of the CRMC or its staff shall have access to the applicant's property to make on-site inspections to insure compliance with the assent. This application is made under oath and subject to penalties of perjury. 5/00

ALLER HARBOR Oyster
Lease Area

41°37.025'N

71°24.224'W R2006-11-042

LEASE
AREA

CAGE & TRAY
9000 Oyster Area

41°36.989'N

71°24.229'W

AREA USED
FOR FLOATING
- Seed BAGS -
ADDITIONAL BAGS
TO BE ADDED
TO AREA

41°37.029'N

71°24.323'W

41°36.990'N

71°24.325'W

RECEIVED

JAN 28 2021

COASTAL RESOURCES
MANAGEMENT COUNCIL

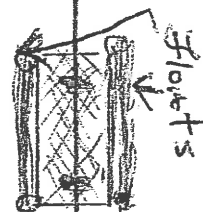
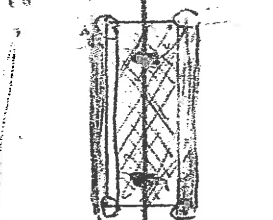
Allen Harbor Cyster

Typical proposed gear layout

(not to scale)

Each Trawl to consist of 25 Bays

3 Bays
To Bottom
To Bottom
To Bottom



ADP Bays

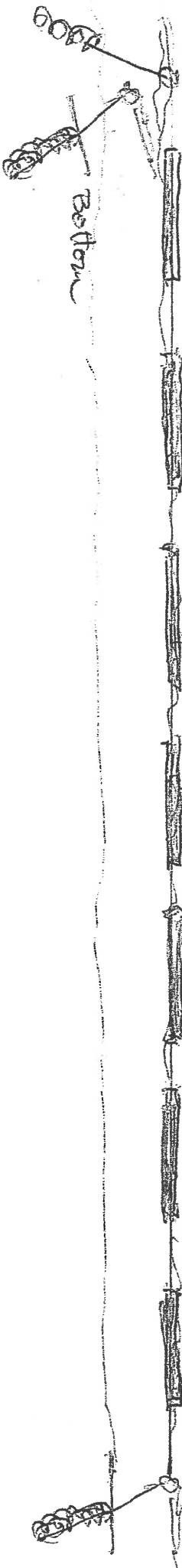


Lead to Bottom
To Bottom
To Bottom

Top View

Main Line

Side View



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JAN 28 2021

COASTAL RESOURCES
MANAGEMENT COUNCIL

Approved Aquaculture Leases in Rhode Island





State of Rhode Island and Providence Plantations
Coastal Resources Management Council
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Fax (401) 783-3767

AQUACULTURE ASSENT
(modified April 9, 2019)

File No. 2006-11-042 Assent No. B2006-11-042

Whereas, Steven DiPetrillo & Andrew Smiley, Jr Allen Harbor Oyster Inc.
of 2890 Tower Hill Road
Saunderstown, RI 02874

has applied to the Coastal Resources Management Council for assent to: maintain a two acre oyster farm at the following coordinates:

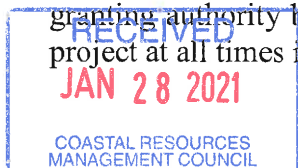
NW 41° 37.029'N; 71° 24.323'W
NE 41° 37.025'N; 71° 24.224'W
SE 41° 36.989'N; 71° 24.229'W
SW 41° 36.990'N; 71° 24.325'W

Now, said Council, having fully considered said application in accordance with all the regulations as set forth in the Administrative Procedures Act does hereby authorize said applicant, subject to the provisions of Title 46, Chapter 23 of the General Laws of Rhode Island, 1956, as amended, and all laws which are or may be in force applicable thereto: maintain this farm in accordance with said plans submitted to this Council and approved by this Council.

Applicant agrees that as a condition to the granting of this assent, members of the Coastal Resources Management Council or its staff shall have access to the site to make on-site inspections to insure compliance with the assent.

Licensee shall be fully and completely liable to State, and shall waive any claims against State for contribution or otherwise, and shall indemnify, defend, and save harmless State and its agencies, employees, officers, directors, and agents with respect to any and all liability, damages (including damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs (including testing, auditing, surveying, and investigating costs), fees (including attorneys' fees and costs), penalties (civil and criminal), and response, cleanup, or remediation costs assessed against or imposed upon Licensee, State, or the Property, as a result of Licensee's control of the Property, or Licensee's use, disposal, transportation, generation and/or sale of Hazardous Substances or that of Licensee's employees, agents, assigns, sublicensees, contractors, subcontractors, permittees, or invitees.

Nothing in this assent shall be construed to impair the legal rights of this granting authority or of any person. By this assent the granting authority by no manner, shape, or form assumes any liability or responsibility implied, or in fact, for the stability or permanence of said project; nor by this assent is there any liability implied or in fact assumed or imposed on the granting authority. Further, the granting authority by its representatives or duly authorized agents shall have the right to inspect said project at all times including, but not limited to, the construction, completion, and all times thereafter.



Steven DePetrillo & Andrew Smiley
Allen Harbor Oyster Inc.
CRMC File Number 2006-11-042
April 9, 2019
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Permits issued by the CRMC are issued for a finite period of time, confer no property rights, and are valid only with the conditions and stipulations under which they are granted. Permits imply no guarantee of renewal, and may be subject to denial, revocation, or modification.

If this matter appeared before the full Council, a copy of the legal decision from this proceeding may be acquired by contacting the CRMC office in writing.

Application for future alteration of the shoreline or other construction or alteration within the CRMC jurisdiction shall be submitted to the CRMC for review prior to commencing such activity.

All applicable policies, prohibitions, and standards of the RICRMP shall be upheld.

All local, state or federal ordinances and regulations must be complied with.

Please be advised that as a further conditions of this Assent, it is hereby stipulated that you and/or your agents shall comply at all times with Federal and State Water Quality Standards and other State standards and regulations regarding water quality, and shall exercise such supervision over and control of these facilities to prevent the dumping or discarding or refuse, sanitary wastes and other pollutants in the tidal waters, either from vessels docked at said facilities or from land adjacent thereto.

No work that involves alteration to wetlands or waters of the United States, shall be done under this Assent until the required Federal Permit has been obtained.

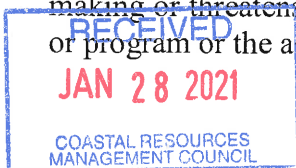
Non-compliance with this assent shall result in legal action and/or revocation of this permit and where applicable the aquaculture lease.

In the event the assented area is not actively used, and activities permitted thereunder are not conducted for a period of more than one (1) year, said Assent shall be terminated, and all license and authorities granted hereunder are revoked. In the event of revocation, termination or completion of the Assent, the Assent holder shall be responsible for restoring the area which is the subject matter of the lease to its former condition. Said restoration includes, but is not limited to, removal of all structures, rafts, floats, markers, anchors, or any other items used in the conduct of the aquaculture activity. Failure to undertake the aforesaid restoration within the period of ninety (90) days from the date of revocation, termination or completion of the Assent shall constitute a violation of an order of the Coastal Resources Management Council.

The CRMC shall have the right to terminate the lease upon the occurrence of the following:

(i) The Assent holder is conducting its business in a manner which, in the sole judgment of the CRMC, conflicts with any Coastal Resources Management Council plan or program;

(ii) The Assent holder is conducting business in a manner which in the sole judgment of the CRMC, is making or threatens to make the area or the abutting area unsuitable in accordance with a CRMC plan or program or the activity is damaging the environment of the coastal region;



(iii) The activity interferes with or hinders activity which the CRMC determines is in the best interest of the State of Rhode Island or such activity inhibits the health, safety, welfare or economy of the citizens of the State of Rhode Island.

CAUTION:

The limits of authorized work shall be only for that which was approved by the CRMC. Any activities or alterations in which deviate from this assent or what was detailed on the CRMC approved plans will require a separate application and review. Additionally, if the information provided to the CRMC for this review is inaccurate or did not reveal all necessary information or data, then this permit may be found to be null and void. Plans for any future alteration of the shoreline or construction or alteration within the 200' zone of CRMC jurisdiction or in coastal waters must be submitted for review to the CRMC prior to commencing such activity.

ATTENTION: ALL STRUCTURES AND FILLED AREAS IN THE TIDAL, COASTAL, OR NAVIGABLE WATERS OF THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS ARE SUBJECT TO:

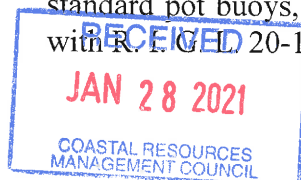
1. The Superior Property Rights of the State of Rhode Island and Providence Plantations in the Submerged and Submersible Lands of the Coastal, Tidal, and Navigable Waters;
2. The Superior Navigation Servitude of the United States;
3. The Police Powers of the State of Rhode Island and the United States to regulate Structures in the Tidal, Coastal, or Navigable Waters.

THE SUBMERGED AND SUBMERSIBLE LANDS OF THE TIDAL, COASTAL, AND NAVIGABLE WATERS OF THE STATE ARE OWNED BY THE STATE AND HELD IN TRUST FOR THE PUBLIC. CONVEYANCE OF THESE LANDS IS ILLEGAL; TITLES PURPORTING TO TRANSFER SUCH LANDS ARE VOID. ASSENTS THAT INVOLVE THE FILLING OR USE OF THE STATES SUBMERGED LANDS ARE GRANTED WITH THE PROVISIO THAT IT IS SUBJECT TO THE IMPOSITION OF A USAGE FEE TO BE ESTABLISHED BY THE COASTAL RESOURCES MANAGEMENT COUNCIL.

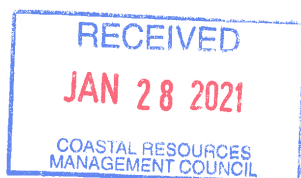
SPECIFIC STIPULATIONS OF APPROVAL

Aquaculture Stipulations

- A. The approved plans shall be those entitled "DiPetrillo & Spadola," prepared by applicant and contained in CRMC File #2006-11-042; modified September 2015, April 2018, and February 2019.
- B. This Assent shall be valid for a period of ten (10) years from the date of extension of assent through August 8, 2022. All assent extension requests shall be evaluated by the Executive Director based on the circumstances described in the request. Any and all applicable lease agreements and fees required by the assent shall be due within six (6) months of the initiation of operations.
- C. The four corners of the lease area must be marked at all times with either spar buoys or standard pot buoys, bearing the letters "CRMC" and "06-11-42" in bold 3" characters in accordance with R.I.G.L. 20-10-9.



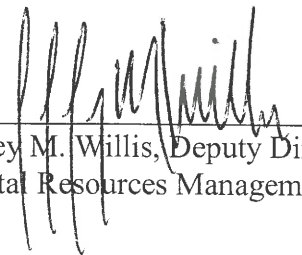
- D. The Assent is subject to the statutes as provided in Section 20, Chapter 10 of the R. I. G. L.
- E. The approved species for the lease site are: eastern oyster (*Crassostrea virginica*).
- F. The applicant must maintain a valid CRMC lease for each year of operation, as approved. The lease agreement will be forwarded to the permit holder on an annual basis. The annual lease fee for the two acre site shall be two hundred fifty dollars (\$250.00), as per Section 160 of the RICRMP, unless otherwise modified by the Council.
- G. All conditions of the DEM "Aquaculture Permit" must be strictly adhered to, otherwise the CRMC Assent may be revoked.
- H. In the event of any significant storm event(s) that causes the dislodging and relocation of any aquaculture equipment, the applicant is fully responsible for the recovery and proper disposal or reuse of said equipment within 60 days in a manner consistent with the CRMC Assent.
- I. The permittee shall file annual reports with the CRMC on forms provided by the CRMC.
- J. Cages shall not be placed or located on eel grass (*Zostera marina*) beds.
- K. Vessels, barges, or floating docks shall not be anchored or moored at the lease site, unless the permittee is actively engaged in operations such as setting or hauling cages, cleaning or harvesting.
- L. The permittee shall post a performance bond in the amount of \$ 5,000.00 to insure the cleanup and removal of the aquaculture facility and equipment upon termination or expiration of the lease or abandonment of the facility by the applicant. Said bond must remain in full force and effect during the permit period. Additionally, the applicant must provide a copy of the bond renewal each year upon renewal of the lease agreement.
- M. The Lessee shall not assign the aquaculture lease to any person or entity nor shall the Lessee sublet the whole or part of any of the lease premises without the prior written consent of the Lessor.
- N. No substances shall be discharged into waters of the State that will adversely affect water quality.
- O. In the event of revocation of any lease or assent, the lessee or assent holder is responsible for restoring the area to preexisting conditions within 60 days from the date of permit revocation. This shall include the removal of all structures including, rafts, floats, markers, cages, buoys, anchors and other equipment located within the lease area. In order to insure the cleanup and removal of the aquaculture facility upon either termination or expiration of the lease and/or abandonment of the facility, the CRMC may call upon the performance bond posted by the permittee.



Steven DePetrillo & Andrew Smiley
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P. The assent allows up to 400 floating bags total as described in February 2019 modification request.

In Witness Whereof, said Coastal Resources Management Council has hereto set their hands and seal this ninth day of April in the year two-thousand-and-nineteen.



Jeffrey M. Willis, Deputy Director
Coastal Resources Management Council

/lat

